

SUBSTITUTE NO. 1 TO ORDINANCE NO. 09-041

**AN ORDINANCE TO AMEND CHAPTER 37 OF THE
CITY CODE REGARDING RESTRICTIONS ON USE
OF A MOBILE TELEPHONE.**

WHEREAS, the City Council deems it necessary and appropriate to enact

provisions regarding the restricted use of a mobile telephone such that no person shall use a mobile telephone while operating a moving motor vehicle or while riding a bicycle unless the telephone or device is equipped with a hands-free accessory.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY

ORDAINS:

SECTION 1. Chapter 37 of the City Code is hereby amended by adding thereto a new § 37-196 to read as follows:

Sec. 37-196. Restrictions on use of a mobile telephone; civil offense.

(a) Definitions. For purposes of this section the following terms shall be applicable.

- (1) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a mobile telephone.
- (2) "Mobile telephone" means a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone messages without an access line for service.
- (3) "Use" means talking, placing, or receiving a call, or attempting to place or receive a call, or texting or attempting to send a text, or email on a mobile telephone or other electronic devices.

(b) Restricted use of mobile telephone.

- (1) No person shall use a mobile telephone while operating a moving motor vehicle or while riding a bicycle in the City of Wilmington unless the telephone or device is equipped with a hands-free accessory.

Rev.#1
#3197

Sponsor:

Council
Member
Brown

Co-Sponsor:

Council
Member
Potter

(2) The provisions of this section shall not apply to the following:

- a. Emergency use of a mobile telephone, including calls to 911, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first-aid squad; and
- b. Use of a mobile telephone by law enforcement and emergency personnel or by a driver of an authorized emergency vehicle, acting within the scope of official duties.

(c) Enforcement; fines and penalties.

(1) A violation of the provisions of this section shall constitute a civil offense with a penalty of \$50, payable to the City of Wilmington Finance Department, Revenue Division.

SECTION 2. Effective date. This Substitute Ordinance shall be deemed effective on January 1, 2010.

First Reading June 18, 2009
Second Reading..... June 18, 2009
Third Reading August 20, 2009

Passed by City Council, Aug. 20, 2009

Norman D. Hiffert
President of City Council 8/20/09

Attest: Maribel Ruiz
City Clerk

Approved as to form this
19th day of August, 2009.

Brandy Ann Roberts
Senior First Assistant City Solicitor

Approved this 21st day of August, 2009.

James M. Baker
Mayor

SYNOPSIS: This Substitute Ordinance amends Chapter 37 of the City Code to add provisions that allow mobile telephones to be used while operating a moving motor vehicle or while riding a bicycle only when equipped with built-in speakers or a hands-free accessory; prohibit placing or receiving text messages, sending or receiving emails on mobile telephones or other electronic devices; and establish penalties for violation of this Substitute Ordinance. This is a civil violation with a \$50 assessment.

Town of Elsmere

Ordinance 511 – Restricting the use of mobile telephones or texting while driving

As used in this section, the words and phrases herein defined shall have the following meaning, unless the context otherwise requires:

- (a) A hands-free accessory means an attachment, add-on, built-in feature, or addition to a mobile telephone.
- (b) A mobile telephone means a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone messages without an access line for service.
- (c) Use means talking, placing, or receiving a call, or attempting to place or receive a call, or texting or attempting to send a text, or email on a mobile telephone or other electronic devices.

Restricted use of mobile telephone;

- (a) No person shall use a mobile telephone while operating a moving motor vehicle or while riding a bicycle within the corporate limits of the Town of Elsmere unless the telephone or device is equipped with a hands-free accessory.
- (b) The provisions of this section shall not apply to the following:
 - 1. Emergency use of a mobile telephone, including calls to the 911 center, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first-aid squad; and
 - 2. Use of a mobile telephone by law enforcement and emergency personnel or by a driver of an authorized emergency vehicle, acting within the scope of their official duties.

Enforcement; fines and penalties;

- (a) Upon conviction for a violation of the provisions of this section a person shall be fined \$50.00.

Effective date;

The provisions of this Ordinance shall be deemed effective November 01, 2009 however, the Department of Public Safety is directed to issue only verbal or written warnings between November 01, 2009 and December 31, 2009. Full enforcement of the provisions of this Ordinance shall begin on January 1, 2010.